

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
David CARTER,

Plaintiff,

-against-

DEMAITRE, N.Y.C. Correction Officer,  
Shield #4857,


Defendant.  
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SARAH NETBURN, United States Magistrate Judge:

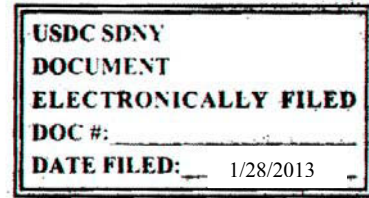
On January 17, 2013, *pro se* plaintiff David Carter wrote to the Court, stating that he “no longer wish[es] to pursue” this case and requesting that it be dismissed. The letter is attached to this report and recommendation. The Court interprets this letter as a request to dismiss the case pursuant to Federal Rule of Civil Procedure 41(a)(2), which states that, “[e]xcept as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” In light of Carter’s letter, I recommend that this case be dismissed without prejudice, with leave to reopen the case within 30 days.

Carter is reminded that, even if the case is dismissed under Rule 41(a)(2), he remains responsible for paying the case’s filing fee pursuant to 28 U.S.C. § 1915(b)(1) (“if a prisoner brings a civil action . . . in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee”).

**SO ORDERED.**

  
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SARAH NETBURN  
United States Magistrate Judge

DATED: New York, New York  
January 28, 2013



12-CV-07056 (RJS)(SN)

**REPORT &  
RECOMMENDATION**

cc: David Carter  
DIN #12-A-5083  
Downstate Correctional Facility  
Box F  
Fishkill, NY 12525-0445

Dear Clerk of the Court, January 17<sup>th</sup> 2013

{ Honorable Magistrate Judge }  
Sarah Netburn } 12.CIV. 7056  
[RJS] [SN]

I no longer wish to pursue  
the above matter. Please Dismiss  
the above case.

Pro SE  
David Carter

VIA U.S. MAIL

CC: Assistant Corporation Counsel  
Daniel Passeser  
Special Federal Litigations  
New York City Law Department  
100 Church Street  
N.Y., N.Y. 10007